

Earthjustice

QUARTERLY MAGAZINE

Summer 2019

A NEW DAY FOR THE ARCTIC

**AGAINST
THE WALL**

**PUERTO RICO'S
PROMISE**

FROM OUR SUPPORTERS



When artist and teacher Anya Tuton carves birds onto wood blocks, she translates her love of nature into a tangible form. Her technique involves hand carving wooden images that she inks onto calendars, giving attention to each aspect of her subject. She chose to donate a portion of her sales to Earthjustice as a way of giving back to the environment that inspires her. "I appreciate that Earthjustice takes a broad stroke on environmental issues," Anya says, "and I try to ignite that awareness in my students."



We love seeing our readers moved to art and action. Share with us at magazine@earthjustice.org, or by tagging [#earthjustice](https://www.instagram.com/earthjustice) on Instagram.



EARTHJUSTICE

Earthjustice is the premier nonprofit environmental law organization. We wield the power of law and the strength of partnership to protect people's health; to preserve magnificent places and wildlife; to advance clean energy; and to combat climate change. We exist because the earth needs a good lawyer.

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Since day one of his administration, President Trump has embarked on a lawless campaign to eliminate environmental protections wholesale. But under our constitution, no one is above the law – not even the president.

As the president overreaches, the courts are upholding the rule of law.

In March, a judge struck down Trump's order to open up oil and gas drilling in the Arctic Ocean, delivering a momentous victory to the majority of Americans who support protecting this unmarred treasure (page 22).

In its ruling, the court found that Trump exceeded his constitutional authority and violated federal law by reversing protections put in place by the Obama administration.

Under the law, a president has only the power to protect lands and oceans.

He or she doesn't possess the power to reverse those protections. By handing down this ruling, the court put a full stop on the administration's desire to turn America's Arctic Ocean into a giant gas station.

But President Trump is attempting to run roughshod over the law in more areas than the Arctic.

On the U.S.-Mexico border, Trump's unprecedented use of emergency powers to circumvent Congress and repurpose funds to build his symbol of hate and fear is a blatant attack on the foundation of our democracy. The power to provide funds to build a wall belongs to Congress, not the president.

In addition to disregarding the separation of powers, the Trump

administration has also waived dozens of environmental laws to pursue this massive wall project. These include landmark protections such as the Clean Air Act and the Endangered Species Act. By waiving these safeguards, the administration has given agencies the green light to trample people's land and sever roots along the border, especially within communities of color.

In our case concerning the wall (page 14), we are representing a diverse coalition of individuals, families, and communities whose lives and

environment are directly affected by the president's actions.

Together, we will fight for the environment that sustains us, and we will hold the president and his administration to account – just as we've done for over 40 years.

This past spring, Earthjustice garnered

a string of victories against the Trump administration. And, overall, the courts have overwhelmingly ruled in our favor against the administration (page 11).

This is our moment. In the second half of Trump's term, the administration has only grown bolder in operating outside the bounds of executive authority to try to gut our bedrock environmental protections and roll back our environmental gains. But Trump's lawlessness is catching up with him.

If we continue to stand together, we will not be silenced. And we will have our day in court.

Abigail Dillen
President, Earthjustice

**TOGETHER, WE
WILL FIGHT FOR
THE ENVIRONMENT
THAT SUSTAINS US.**

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By Jessica A. Knoblauch

Earthjustice attorney Erik Grafe explains what our victory in the Arctic means for the country and the climate.

Ringed seals rest by holes in the ice in the Alaskan Arctic.

Florian Schulz / visionsofthewild.com

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By Alejandro Dávila Fragoso

Trump's border wall would upend an ecosystem and sever the deep roots of those living there.



Earthjustice client Ramiro Ramirez sits in a historic chapel that may be rendered inaccessible by the border wall. Martin do Nascimento / Earthjustice



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By Emilie Karrick Surrusco

The island's plans for rebuilding don't align with its promise to go green.



Fuse Green for Earthjustice

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Earthjustice has repeatedly taken this administration to court. And we are winning.

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Over 1 million people in the U.S. lack basic sanitation. One rural community is fighting for this human right.



Earthjustice preserved federal rules protecting workers and consumers from weak pesticide oversight.
Dave Getzschman for Earthjustice



NATIONAL: HANDS OFF FARMWORKER PROTECTIONS

Thousands of times a year, toxic pesticides afflict farmworkers with vomiting, headaches, or even more serious symptoms. After years of work in Congress and the courts, this winter Earthjustice and our partners saved a set of critical pesticide rules that Trump's EPA tried to eliminate. These rules establish that minors can't work with pesticides. The rules also bulk up requirements for pesticide registration and worker safety training. Over 2.5 million farmworkers, nearly 1 million pesticide applicators, and countless families are now safer from the dangers of pesticide misuse on food and near homes, schools, and workplaces.





NATIONAL: JUDGE TAKES BITE OUT OF SHARK PLAN

A federal judge tanked the Trump administration's flawed approach to managing vulnerable dusky sharks. The judge ordered the administration to provide better scientific support for their regulations of the sharks, which play a critical role in keeping coastal ecosystems healthy. National fisheries data shows that the dusky shark population along the Atlantic and Gulf coasts has plummeted because commercial fishing operations often catch the species by accident. Unfortunately, the government chose to ignore much of this evidence when drafting overfishing regulations in 2017. Earthjustice sued to ensure that dusky shark protections are based on science, and not leniency toward inhumane industry practices.



CALIFORNIA: THE PACK SURVIVES

Wild gray wolves disappeared from California for almost a century, but since 2011, they've been staging a comeback. Now, a state judge has upheld protections for them. Ranching groups falsely claimed that California lacked authority to protect the wolves under the state's Endangered Species Act, which makes it illegal to kill wolves in the Golden State. The court sided with the state, conservation groups, and Earthjustice. Though the species remains shielded within California, the Trump administration has announced a plan to strip wolves of endangered species protections across most of the lower 48. If the administration follows through, we'll see it in court.



CALIFORNIA: THE RIGHT TO FIGHT

Californians have a better chance to protect themselves from dirty power plants slated for construction in their backyards. A state court has affirmed citizens' constitutional right to challenge approvals of new fossil-fuel power plants at the local court level. Until now, Californians could only appeal new power plants to the state's highest court – where review was discretionary. In the past 30 years, the court has not taken a single case challenging a new power plant. This move ensures that California communities now have a chance to fight in court for clean energy instead of being forced to accept new fossil-fuel projects that will lock in decades of dirty energy dependence.

A power plant stands on a beach in Moss Landing, California. State residents can now fight in local courts against dirty power plants being built in their backyards. *Dan Solomon / Getty Images*



LOUISIANA: AN OILY INTERVENTION

The longest oil spill in U.S. history isn't going to halt itself – so we're stepping in. After Taylor Energy failed to clean up a 14-year-long oil spill off the Louisiana coast, the U.S. Coast Guard took control last year and began comprehensive containment procedures. Taylor sued to stop the Coast Guard from getting involved, so Earthjustice is intervening to defend the Coast Guard's actions. Taylor's rig collapsed during Hurricane Ivan in 2004 and has been dumping oil continuously into the Gulf of Mexico, oozing up to 30,000 gallons a day.



FLORIDA: NO TURNING BACK ON EVERGLADES

Water from Everglades National Park recharges the aquifer that is the main source of drinking water for South Floridians. For decades, a legal agreement has required the state to clean up dirty agricultural runoff flowing into the park. Recently, a federal judge turned down a request to let the state off the hook. Conservation groups represented by Earthjustice argued that the agreement is critical for shielding the Everglades from excessive pollution. In addition to recharging the aquifer, the park houses the largest mangrove ecosystem in the Western Hemisphere and is a critical breeding ground for tropical birds.

The Cascade-Siskiyou National Monument is an important biological corridor for Pacific wildlife. In April, a federal judge upheld a 2017 expansion of the monument's borders. Photo Courtesy of Bob Wick / Bureau of Land Management





OREGON: EXPANDING THE FOREST FOR THE TREES

The Cascade-Siskiyou National Monument is not a private lumber yard for timber interests. A federal judge dismissed an industry lawsuit that challenged President Obama's expansion of the monument in 2017. Logging company Murphy Timber argued that the expansion was illegal because it included lands that Congress had designated for "forest production" in 1937, but the judge ruled that President Obama acted lawfully in protecting Cascade-Siskiyou's "unique, scientific biodiversity." Earthjustice continues to defend the monument's expansion in two other timber industry cases.





NATIONAL

A HALT ON COAL

When the Trump administration repealed an Obama-era moratorium on new coal leases in 2017, Earthjustice sued the same day. Cattle ranchers, indigenous tribes, and environmental groups joined the lawsuit. In a blow to the administration's pro-coal agenda, a federal judge in Montana has ruled that President Trump's race to mine America's public lands was illegal. The fight isn't over. The administration has responded with a new process that silences public input and denies the obvious harm from federal coal leasing, which accounts for 11 percent of all U.S. climate pollution. We will continue to fight the administration's attempts to illegally rush a decision on coal.

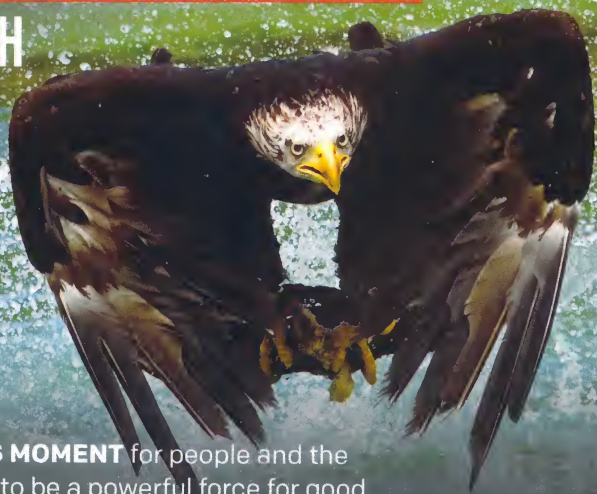
A DEADLY DELAY

The clock is ticking for a federal ban on methylene chloride, a lethal ingredient used in paint strippers. The chemical has been conclusively linked to the deaths of more than 50 people, most of whom were workers using paint strippers on the job. The Trump administration left workers at risk with its final rule on methylene chloride by only banning consumer uses. Enough is enough: Latinx labor advocates represented by Earthjustice are suing the government to challenge the exclusion of commercial uses from the ban and to secure the rules needed to protect painters, day laborers, and other workers – who are often Latinx – from asphyxiation, heart failure, cancer, and sudden death.

– Alison Cagle

MAKE AN IMPACT

EVERY MONTH



AT THIS HIGH-STAKES MOMENT for people and the planet, now is the time to be a powerful force for good. Become a monthly donor and work with us to keep our world healthy and safe, now and for the future. To make your monthly gift, contact **(800) 584-6460** or **earthjustice.org/monthly**.



EARTHJUSTICE

Holding the Line

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THE ADMINISTRATION**

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VICTORIES

Earthjustice believes that facts matter. That's why we keep challenging the flimsy legal underpinnings of the Trump administration's environmental rollbacks — and why we keep winning.

When We Win...

Kids Stay Healthy

A federal appeals court in San Francisco ordered the EPA to stop stalling and decide by mid-July whether to ban the pesticide chlorpyrifos, which scientists have linked to brain damage in children.



Drinking Water Stays Clean

In April, a federal appeals court in New Orleans ordered the EPA to protect people who live downstream from coal plants by strengthening limits on toxic wastewater disposal.



Oceans Stay Vibrant

In March, a federal judge in D.C. ruled that regulators must use science to set catch limits for dusky sharks, which play a critical role in keeping the ocean food web balanced.



We've grown to 135 attorneys across 15 offices so that we can take on fights like these. This is Earthjustice at full capacity, and we're not slowing down.

— By Rebecca Cohen Design by Jaime Yang

THE **BIG** PICTURE



Catherine Flowers in Lowndes County, Ala.
Bob Miller / Redux Pictures

It's not uncommon to see PVC pipes running through people's yards in Lowndes County, Alabama. These improvised sanitation systems carry human waste to nearby pits of collective household sewage. During heavy rains, that waste flows back into yards, gurgling up bathtub drains.

Residents have few options for accessing basic sanitation in rural, sparsely populated areas. The cost of a septic system far exceeds rural incomes, yet Alabama is one of many states that penalizes homeowners for a lack of

proper sanitation. Residents also risk elevated health impacts. A 2017 study found that over 30% of Lowndes residents tested positive for hookworm, a disease caused by exposure to raw sewage and long thought to be eradicated in the United States.

Catherine Flowers, a native of Lowndes County and founder of the Alabama Center for Rural Enterprise (ACRE), is fighting for justice in her community. When the county falsely claimed that there was no hookworm epidemic, Flowers went to court. Represented by Earthjustice, ACRE has filed a federal



complaint against the county and state for misleading the public about the results of the hookworm study and disproportionately burdening African American residents with insufficient wastewater services.

At a congressional briefing in May, Flowers emphasized the need to make basic sanitation in rural areas a federal priority.

“This is an opportunity to remove the shame associated with discussing wastewater treatment failures,” she testified.

Lowndes is not an anomaly. Studies show

that between 1.4 and 1.7 million Americans lack a toilet, tub, shower, or running water. Moreover, as climate change accelerates, sanitation issues will only grow more pressing, as erratic rainy seasons increase the risk of floodwaters transporting raw sewage or damaging faulty septic systems.

“We can no longer treat this as if climate change doesn’t factor into it,” says Flowers.

“Innovation is necessary to go beyond the immediate crisis in Alabama and work toward real, long-term solutions.” 🌱


— Alison Cagle

WALLED OFF

EARTHJUSTICE CLIENTS DEFEND THE
INTEGRITY OF THE BORDERLANDS.

By Alejandro Dávila Fragoso

Photos by Martin do Nascimento / Earthjustice



A bird perches atop the border
wall near Peñitas, Texas.



Top: Ramiro Ramirez visits his parents' graves at Jackson Ranch Cemetery in Texas. Trump's wall would make it more difficult to visit the cemetery. Bottom: Wall construction may leave the cemetery and historic Jackson Chapel in a no man's land.

President Trump's border wall expansion is the least regulated mega-project in modern American history.

In the wake of September 11, 2001, Congress gave the executive branch the authority to waive all environmental laws when erecting border barriers.

Ever since, contractors building walls and fences have been able to ignore impacts to critical habitat, migratory pathways, and cultural resources. They also have been reckless about building in floodplains. Barriers and blockages of drainage tunnels have worsened flooding in border communities. In 2008, two people died in Nogales, Mexico, from one such flood.

Enter Trump. When he declared a national emergency to seize funding for the wall, he overstepped presidential authority and opened the door to new legal challenges.

"Earthjustice has been warning all who will listen that the construction of Trump's wall would be a disaster outside of the confines of the law," says Raul Garcia, an Earthjustice



“Congress rejected the plan with overwhelming bipartisan votes. Trump’s defiance means this fight moves from Congress to the courts.”

legislative director. “Trump doubled down on his lawlessness when he declared a state of national emergency. Congress rejected the plan with overwhelming bipartisan



votes. Trump's defiance means this fight moves from Congress to the courts."

Ramiro Ramirez stands in his family graveyard in McAllen, Texas, and remembers time spent here with his grandmother. When he was a kid, she would take him by the hand to ring the cemetery chapel bell before Sunday services.

It has been more than half a century since he walked across the cemetery with his grandma. The one-room



chapel no longer hosts public ceremonies, but Ramirez still loves to ring the bell every time he shows the place to visitors.

"Without being overly demonstrative," says the 70-year-old, as the peals break the stillness of a warm March day, "[this place] means my life."



Dr. Christopher Basaldú of the Carrizo/Comecrudo stands in front of the Tribe's Yalui encampment at the Eli Jackson Cemetery.

His family still uses the 154-year-old cemetery and the chapel that their ancestors, the Jacksons, established on this land, lush with green-and-yellow retama trees, just a mile from the Rio Grande, where Texas ends and Mexico begins.

On the tombstones, the names and surnames shift from Anglo to Latino over the generations, as the Jackson clan married and grew large in this borderland.

But the chapel, the cemetery, and all its history could soon be desecrated. Trump's long-promised border wall is slated to stand just north of the Jackson Ranch Cemetery. Wall construction could damage the Jackson Ranch church, a state-designated historical site. It may also require the digging up of human remains.

In March, Earthjustice filed a lawsuit on behalf of the Ramirez family and others. Some of the clients are fighting the ecological devastation the wall would cause by cutting wildlife off from their habitat and disrupting the river's natural floodplains. Others, like the Ramirez family, are fighting to keep the wall from severing their ties to the land, the generations who lived on it, and the cultures they shared.

All are fighting to preserve the land that sustains them.

"We won't defeat this hateful border wall if we talk about it through a single-issue lens," says Luis Torres, senior legislative representative at Earthjustice. "We need to bring the voices of immigration advocates, Latinx communities,

wildlife and conservation leaders, indigenous leaders, and faith communities to stand together.”

The Ramirezes aren’t the only ones whose deep roots in the land and way of life are threatened. The border wall would tear up the sacred lands of the Carrizo/Comecrudo, a local Native American Tribe that has joined the suit. Ancestors of the Carrizo/Comecrudo (Esto’k Gna) Nation have inhabited the Rio Grande for centuries or more, living, trading, and worshipping up and down the river. Tribal members have descendants in another nearby historical cemetery imperiled by the wall.

“These are our ancestral homelands,” says Dr. Christopher Basaldú, a scholar and member of the Carrizo/Comecrudo. “It’s not a matter of if; it’s a matter of when and where they are going to encounter Native American remains.”

Uncertainty about the government’s plans has deepened concerns here, but Earthjustice’s lawsuit has helped the clients get more information about the government’s plans for the wall.

In response to the suit, Customs and Border Protection officials said that while there are indeed plans to build a wall near the chapel and the two cemeteries, the wall “will not be located through either cemetery.” CBP claims they’ve decreased the wall’s proposed enforcement area so there won’t be a need to acquire and move any burial grounds. “The project will not prohibit anyone from visiting the cemeteries,” the agency claims.

Earthjustice attorney Sarah Burt notes that to avoid disturbing these sites, the wall will need to be built farther to the north, trapping the chapel and cemeteries in a mile of no man’s land stretching between the wall and the Rio Grande.

She says that while CBP is saying the project won’t prohibit visitation, it will almost certainly inhibit it. Other areas stranded between the wall and the border have locked gates. If that were to be replicated here, the Ramirez family would have to find a border guard willing to open a gate in order to access the places where their ancestors rest.

Expanding the border wall may cause irreversible damage to wildlife, experts and environmentalists say, since it severs landscapes, creating roadblocks in the migration paths of endangered butterflies, wolves, bighorn sheep, ocelots, and other critters. The wall would also impede the natural flow of waterways.



Tricia Cortez, executive director of the Rio Grande International Study Center, stands by the border in Laredo, Texas.

In places like Laredo, Texas, the border wall would cut through the city and hinder the flow of the Rio Grande, in part because the river depends on runoff from land and vegetation now in the crosshairs, says Tricia Cortez, executive director of the Rio Grande International Study Center, another client in the case. The Rio Grande is this region's lifeblood, providing water for more than 6 million people and 2 million acres of land.

"We are talking about creating a wall that is going to cut through ecological assets ... nature trails, parks, low-income and middle-income neighborhoods, and just this rich river *vega* – the floodplain that lines our entire city," says Cortez as she holds back tears.

"We stand so proudly with other plaintiffs and with Earthjustice, that has the guts to speak up for us, and to speak up for our community, and to speak up for this river that can't speak for itself," she says.

The full list of plaintiffs also includes border landowner Elsa Hull, GreenLatinos, the Labor Council for Latin American Advancement, and the California Wilderness Coalition.

Earthjustice's lawsuit argues that the president has overstepped his constitutional powers by trampling on Congress' power to decide how our tax dollars are spent. In February, Trump declared a national emergency at the border. This false narrative is a cynical ploy to divert emergency funds for the wall after Mexico and Congress both refused to pay.

Trump's attempt to build the wall using money appropriated for other things – when Congress has explicitly said "no" – is illegal, says Burt, lead attorney for Earthjustice on the case.

"President Trump's abuse of emergency powers is a blatant power grab," she says. "It is illegal. It goes against our basic form of government, and harms those who live, work, and worship along the border."

Earthjustice's litigation is now making its way through the U.S. District Court for the District of Columbia. Meanwhile, the Trump administration has already begun awarding contracts for some construction in the Rio Grande Valley.

The area is being watched by members of the Carrizo/Comecrudo Tribe. They

TRUMP'S ENVIRONMENTAL WAIVERS

The border wall and its construction pose numerous environmental threats to regional ecosystems and species. Instead of addressing those threats, the administration is using the Real ID Act of 2005 — a controversial post-9/11 security law — to waive over 30 environmental laws that are meant to protect the nation's biodiversity. Some of the wall's impacts include blocking wildlife migration and flooding.

KEY LAWS WAIVED

- National Environmental Policy Act
- Endangered Species Act
- Clean Water Act
- Safe Drinking Water Act
- Clean Air Act
- Migratory Bird Treaty
- Wild and Scenic Rivers Act
- Coastal Zone Management Act

SOURCES

Ohio State University Study

<https://u.osu.edu/madsen.34/maps>

Sierra Club tracking

<https://www.sierraclub.org/borderlands/real-id-waiver-authority-compromises-our-borderlands>



Since January, members of the Carrizo/Comecrudo Tribe have camped at Eli Jackson Cemetery, which is part of their ancestral lands.

have camped out on the Eli Jackson Cemetery grounds since January 12 to protect the site from future construction.

More than a dozen tents make up the encampment that its inhabitants call Yalui, named for the Carrizo/Comecrudo word for the native butterflies that live and migrate in the vicinity.

A neighbor provides Yalui's residents with water to wash, and they have electricity from a solar generator – when it works. They nonetheless struggle to get ice and drinking water to endure the sweltering days and firewood to withstand the cool, dry evenings.

But on a starry night in April, Yalui residents are in good spirits as they eat curry with sweet potatoes cooked directly on the campfire, their faces

“[We] speak up for this river that can't speak for itself.”

lit by phone screens. They spend dinners divvying up watch duties – they often see suspicious cars nearby – or planning trips to town to get supplies, charge their phones, and use the internet.

“It's family style, so jump in. Don't be shy,” says one camper named Doug.

Meanwhile, a Border Patrol helicopter flies nearby, guarding a border that just a few centuries ago used to be native land.

“For us, there is no border,” says Juan Mancias, chairman of the Carrizo/Comecrudo Tribe. “The narrative has got to change.” 🍌

IN IT FOR THE LONG HAUL

Defending America's Arctic

Earthjustice's longstanding Arctic campaign recently resulted in a key court ruling that protects the Arctic Ocean from oil drilling. Here's how we got to where we are today.

1990s

Earthjustice begins its fight to protect the Arctic from oil drilling, working to block leasing in the region's most sensitive landscapes.

2000s

As Arctic ice melts, the George W. Bush administration begins fast-tracking drilling in America's Arctic Ocean. Earthjustice responds by ramping up its Arctic Ocean work.



The sun never sets during the summer in America's Arctic. Instead, it hovers above the horizon, creating an oblique light that illuminates the icy blue terrain through the midnight hour.

A recent federal court ruling ensures the Arctic's midnight sun will continue to shine over an ocean unmarred by oil drilling rigs. This spring, a judge struck down the Trump administration's attempt to open up oil and gas drilling in the vast majority of America's Arctic Ocean. The ruling immediately restores permanent protections put in place by the Obama administration to prevent drilling in the fragile Arctic ecosystem, as well as in important areas of the Atlantic Ocean.

Earthjustice filed the lawsuit in 2017, building on years of Arctic litigation and advocacy work (see timeline). The court's decision marks a big win for the majority of Americans who support permanent protections of the Arctic and Atlantic oceans from oil and gas drilling. It also builds support for extending protections to all of America's Arctic, including at-risk areas like the Western Arctic and Arctic National Wildlife Refuge.

Earthjustice's lead attorney on the case, Erik Grafe, explains the ruling's broad implications for our country and the climate.

A polar bear stands atop an iceberg in Alaska's Beaufort Sea, which is now largely protected from oil and gas drilling. Steven Kazlowski / Minden Pictures

2007

Thanks to Earthjustice litigation, a federal court halts Shell's massive exploratory drilling plans in waters near the Arctic National Wildlife Refuge.

2010

Earthjustice litigation halts oil- and gas-drilling activities on millions of acres in the Chukchi Sea.



What sparked your interest in this work?

Although I grew up largely on the East Coast, I had always been interested in Alaska as an idea and a place. But what sealed the deal for me was getting to serve in a federal district court clerkship in Anchorage. I just loved it there: the mountains, the vastness, the people. I knew I had to come back to help protect this unforgettable landscape.

A year later, my dream came true when Earthjustice offered me a job to work in its Alaska office. The Bush administration was pushing hard to drill in the Arctic Ocean, which they saw as the next big frontier for

oil. So from day one, I was focused on protecting the Arctic. As I learned more about the Arctic and had the opportunity to represent some of its communities, I began to appreciate the region's uniqueness, as well as the seriousness of climate change and oil development threats there.

How does this victory fit into the broader Arctic drilling debate?

Earthjustice has been advocating against drilling in the Arctic for more than a decade. We've come a long way.

We started this campaign to protect the Arctic Ocean with somewhat lonely court battles against giant energy companies and the government to try to slow the rush to drill. Eventually, the broader public started paying more attention. During the



King eider ducks fly along Alaska's Arctic coast during their summer migration.

Steven Kazlowski / Minden Pictures

2013

Almost 80,000 Earthjustice supporters sign a petition urging President Obama to cement his climate legacy by banning all Arctic Ocean drilling.

2011

The Obama administration greenlights Shell drilling in the Arctic Ocean less than two years after the Deepwater Horizon spill. Earthjustice challenges Shell's oil-spill response plan.

2012

Shell makes several blunders during preliminary drilling operations in the Arctic Ocean. The company is eventually forced to evacuate 18 men aboard an exploratory drill rig, ending the endeavor.

Obama years, the dangers of offshore drilling became increasingly clear through the tragic Gulf of Mexico oil spill of 2010, Shell's bungled and nearly catastrophic attempts to drill in the Arctic Ocean, and the worldwide scientific recognition that expanding fossil fuel development is a road to climate disaster.

We, our partners, and the public went from holding the line against reckless offshore drilling projects to eventually convincing the Obama administration that Arctic Ocean drilling should be a thing of the past. When President Obama put in place a permanent Arctic Ocean drilling ban, there was still a pristine Arctic left to preserve, largely because of our years-long litigation efforts. This court case represents a successful defense of that key legacy.

Are these places now completely off-limits to drilling?

Yes. Obama used his authority to withdraw those areas permanently from

oil and gas leasing. President Trump alone cannot undo those protections. He simply lacks the authority.

Only Congress has the power to revisit these protections once they are in place. It makes sense that Congress gave only the power to *protect* to the president, because once you drill in these places, there is no turning back.

How does this case impact the administration's broader attacks on the environment?

The court's decision gives a boost to our other work protecting Bears Ears and Grand Staircase-Escalante national monuments. Under the Antiquities Act, Congress granted the president the authority to protect areas as national monuments. Trump has tried to revoke these protections.

This recent court victory affirms a basic principle that's also applicable to these national monument cases: Congress has the power to set rules for public lands and waters, and its



2015

The climate case against Arctic drilling continues to build as scientists determine we must keep all Arctic fossil fuels in the ground if we want to avert a climate catastrophe.

2014

Earthjustice wins again after a court orders the government to reconsider the environmental impact of drilling in Chukchi Sea. In the meantime, drilling is halted.

2015

Hundreds of people in kayaks and canoes protest the docking of Shell's drilling rig in Puget Sound, Washington, as the rig makes its way to the Arctic for drilling.

delegation of a power to protect does not automatically include the power to *undo* protections.

Does this victory put safeguards around the power of the presidency?

Absolutely. Since day one, Trump's administration has run roughshod over the law to try to turn America's public lands and waters into gas stations. But his lawlessness is catching up with him. This most recent victory puts a full stop on the president's power. It demonstrates that even the president isn't above the law.

This case also reaffirms the checks and balances of power between the legislative, executive, and judicial branches. It upholds the bedrock principle that says the constitution allocates power among the different branches of government. The court determined that Trump's attempt to undo or revoke Obama's withdrawal was beyond his power and violated the constitution as a result.


Will this ruling affect Earthjustice's other Arctic work?

In the Arctic, the ocean and land are intimately connected. Caribou and birds migrate all across the Arctic, fish swim from rivers to the ocean and back, and walruses use coastal areas and feeding grounds far out to sea. So what happens in one part of the Arctic affects all other parts, including our work to protect the Western Arctic and the Arctic National Wildlife Refuge.

This victory also validates the values that underscore Obama's ocean withdrawals. Obama had the foresight to withdraw the Arctic Ocean from oil and gas drilling both to protect the sensitive and irreplaceable region and to protect our climate. He determined there are some places too precious to drill, particularly at a time when we urgently need to be transitioning off fossil fuels.

Does this victory move us in the right direction on climate?

If all known fossil fuel reserves are extracted and burned – let alone



The nutrient-rich waters of the Arctic Ocean's Chukchi Sea make it one of the most abundant marine ecosystems in the world, sustaining whales, walruses, and seabirds. *Photos provided by Karen E. Frey / NOAA*

2016

President Obama permanently protects 98% of the Arctic Ocean from oil drilling after years of advocacy by scientists, environmental leaders, and others.

2017

President Trump rolls back a number of environmental protections within his first 100 days in office, including Obama's permanent Arctic drilling ban. Earthjustice challenges Trump's reversal.

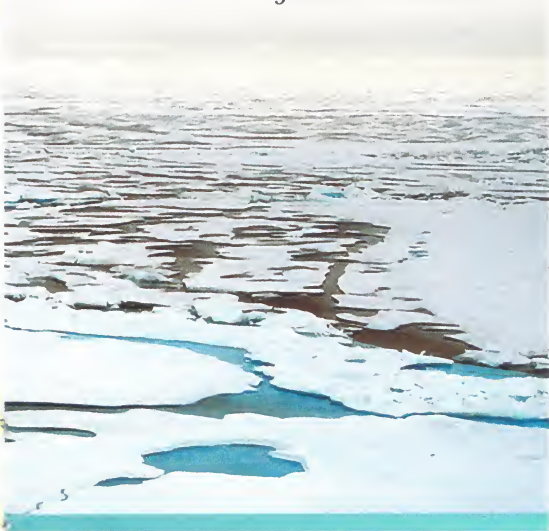
additional, undiscovered reserves like those in the Arctic and Atlantic oceans – we'll cross the 1.5 degrees Celsius threshold that scientists have warned we need to stay under in order to avert the worst impacts of climate change.

By setting these areas aside from oil drilling, and essentially keeping an Arctic climate bomb in the ground, Obama's order conforms to the reality of our situation and gives us a better chance at addressing the problem.

What happens now?

The law of the land today is that the vast majority of the Arctic Ocean and important Atlantic marine canyons are protected from oil and gas drilling. The Trump team and its allies have appealed the district court's decision. We believe the court got it right, and we will defend its decision on appeal. 🇺🇸

— Jessica A. Knoblauch



2019

In March, a judge strikes down Trump's attempt to undo the ban, determining that he overstepped his constitutional authority and violated federal law. In May, the administration appeals the decision. Earthjustice plans to fight the appeal.



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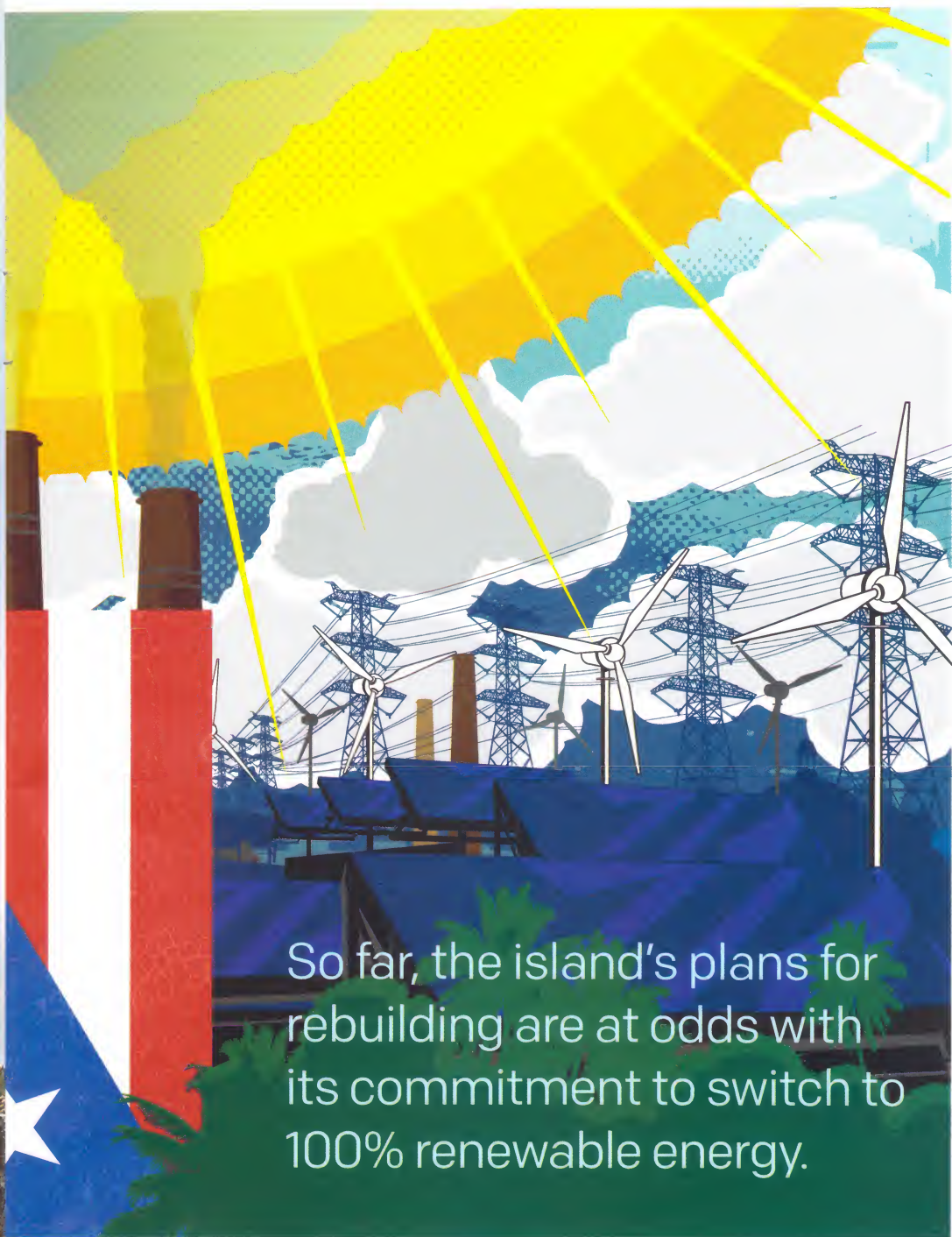
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By Emilie Karrick Surrusco
Illustrations by Fuse Green



So far, the island's plans for rebuilding are at odds with its commitment to switch to 100% renewable energy.

Hurricane Maria blew through Puerto Rico in a matter of hours, but for many, the aftermath was the bigger disaster. In the months that followed, nearly 3,000 people died and the entire island was without power in what became the longest blackout in U.S. history.

Ruth Santiago, who works as a public interest lawyer in southeastern Puerto Rico, describes how the simplest tasks became very complicated.

“My mother, who was 86 years old at the time, is diabetic,” Santiago says. “I was really worried about her insulin medication, keeping it at the right temperature. We were using a car battery with an inverter to power a small refrigerator, and it wasn’t working that well.”

She and several neighbors shared a two-burner gas stove to cook their meals. Portable generators released noxious fumes that sent people to the hospital and made so much noise that sleeping was impossible. Banks couldn’t give people the cash they needed to buy food at stores that were cash-only.

“Hurricane Maria exposed the failure of the entire electrical system,” says Earthjustice lawyer Laura Arroyo, who was born and raised in Puerto Rico. “People depend on energy to live. A lot of people died, but most didn’t die from the direct impact of the hurricane, it was more about the sustained power outage.”

WITH RENEWABLE ENERGY, PUERTO RICO COULD REBUILD ITS GRID TO BE MORE RESILIENT TO FUTURE HURRICANES.

Almost two years later, Puerto Ricans are still picking up the pieces. As the island territory slowly rebuilds, local residents are demanding that their government make smart decisions about the island’s future, particularly when it comes to its electrical system.

On paper, the government and the Puerto Rico Electric Power Authority (PREPA), the government-owned utility company, seem to be responding.

In April, Gov. Ricardo Rosselló signed a law that commits the island to use renewable energy sources to generate all its electricity by 2050, with a phase out of coal combustion by 2028. With this law, Puerto Rico joins a growing list of U.S. states, territories, and cities that are making the jump to 100% clean energy (page 33).

Currently, the island’s electrical grid depends almost solely on imported oil, coal, and methane. The government’s plan to implement the shift to clean energy includes a 40% increase in the use of methane, imported from the U.S. mainland, as a way to bridge to renewable sources of energy.

This increase in methane is unnecessary, says Santiago, who works with community and environmental groups such as El Puente and Latino Climate Action Network. Last fall, she and other local experts presented PREPA with a plan that combined solar, wind, and wave energy alongside energy-efficiency efforts,

demand-response programs, and battery storage systems. With that mix, Puerto Rico could not only fulfill the obligations outlined in the clean energy law, but it could also rebuild its grid to ensure the island is more resilient to future hurricanes.



From top: **Ruth Santiago** works as a public interest lawyer in southeastern Puerto Rico. *Matt Roth for Earthjustice.* **Solar panels** power 12 homes in Las Pedras, Puerto Rico. *Dennis M. Rivera Pichardo / AP Images*

Earthjustice attorneys are representing these citizens as they press the government for meaningful action.

“We know for a fact that we can already do large-scale renewable energy, without more investment in methane or any other fossil fuel. And customer self-supply, such as rooftop solar, is the lowest cost alternative,” says Santiago. “Yet the government is proposing to build three offshore liquified methane ports and one land-

based, as well as lots of combined-cycle gas turbines. They want to make Puerto Rico the methane gas hub for the Caribbean.”

Puerto Rico’s existing electrical system consists mostly of a network of large centralized power plants in the less populated and less prosperous southern end of the island. Power is sent to the San Juan metropolitan area in the north, where 70% of the



Earthjustice attorney Laura Arroyo grew up in Puerto Rico. She is working with grassroots organizers there to urge the government to move toward 100% clean energy. *Maria Alejandra Cardona for Earthjustice*

population lives and much of the demand is located.

The power travels along transmission lines that traverse the island's mountainous region and dense tropical forests. The infrastructure is old and malfunctions frequently. According to a 2016 report, Puerto Ricans were already suffering power outages before Hurricane Maria hit at rates four to five times higher than average U.S. customers.

The current system's reliance on imported fossil fuels is expensive for Puerto Rico consumers, who pay twice as much for their electricity as U.S. mainland residents. PREPA forecasts that Puerto Rico consumers will pay \$1.2 billion for coal, oil, and methane this year alone. Those costs could continue to go up if they are forced to pay off a large portion of the bankrupt utility's debt, as proposed in the latest restructuring agreement.

"Everybody on the island realizes that the current system is not resilient and not affordable," says Earthjustice lawyer Raghu Murthy. "PREPA must

end its addiction to imported fossil fuels. The plans produced by our clients demonstrate that distributed renewable energy can meet the island's energy needs."

The island's current reliance on imported fossil fuels has also had dire impacts on the environment and public health.

For example, Puerto Rico's one coal-fired power plant churns out 400,000 tons of toxic coal ash each year. Despite a 2017 law that prohibits coal ash from being stored on the island, this coal ash is buried at various sites where it leaches into the groundwater. AES, the massive power company based in Virginia that owns the coal plant, had been selling the coal ash at a nominal cost to be used as fill material in construction. Currently, there's an estimated 2 million tons of coal ash buried in backyards across southern Puerto Rico, in close proximity to the South Coast Aquifer, the only source of potable water for tens of thousands of people.

"A system reliant on fossil fuels doesn't work for the people of

Puerto Rico,” says Santiago, who lives near the coal plant, and has been fighting for years against its coal ash waste and toxic emissions into the air and groundwater.

For decades, Puerto Ricans have been pushing PREPA and the government to transition to clean energy and address the grave economic and environmental issues presented by the current system. In fact, before the current law was passed, a mandate already existed for the island to generate 12% of its energy from renewable sources by December 2015. As of 2017, just 2% came from renewables.

“Using methane isn’t going to help us get to the new goal or even the existing one,” Santiago says.

Last year, a coalition of grassroots organizations and environmental organizations released a proposal — Queremos Sol, or We Want Sun — that offers a path toward a truly sustainable future.

The plan outlines the technical steps needed to transform the grid to 100% clean energy by 2050, with an emphasis on rooftop solar and a decentralized approach that moves the system away from transmission lines that go down in hurricanes. It also provides a way to

THE MOVEMENT FOR 100%

Puerto Rico isn’t alone in choosing renewable energy. Numerous states have committed in law to transition their economies to 100% clean energy over the next few decades.

Earthjustice has been pushing for 100% clean energy by working in the courts and at the regulatory level to clear the way for these new laws. In the case of California and Hawai’i — two of the first states to commit — Earthjustice helped draft the bill language.

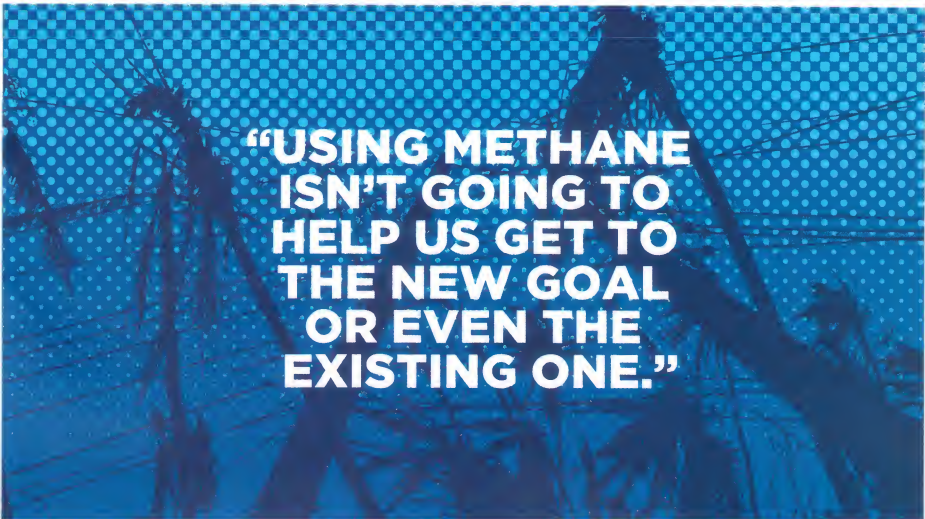
STATES / REGIONS COMMITTED TO 100% CLEAN ENERGY:

*California, Hawai’i, New Mexico,
Washington, Puerto Rico, and
Washington, D.C.*

U.S. CITIES COMMITTED TO 100% CLEAN ENERGY:

CITIES THAT HAVE ALREADY ACHIEVED 100% CLEAN ENERGY:

*Aspen, CO; Burlington, VT;
Georgetown, TX; Greensburg, KS;
Rock Port, MO; Kodiak, AK*



**“USING METHANE
ISN’T GOING TO
HELP US GET TO
THE NEW GOAL
OR EVEN THE
EXISTING ONE.”**

finance this transition without privatizing PREPA, which recently announced its second plan for debt restructuring.

Solar energy is abundant in Puerto Rico. A 2009 study by the University of Puerto Rico at Mayagüez states that with the proper infrastructure, the island could more than meet its annual energy needs through renewables. Relying on clean energy would also be significantly less expensive than the current system – as little as \$300 million a year to power 75 percent of Puerto Rico's homes, according to one estimate.

When PREPA releases the next draft of its 20-year plan, Earthjustice attorneys will represent groups such as El Puente, Latino Climate Action Network, Comité Diálogo Ambiental, and Cambio P.R. as they fight to put clean energy into the plan and take dirty energy out.

"The grassroots community got the government to commit to 100%," says

Murthy. "Now we're holding their feet to the fire."

Earthjustice will continue working with activists on the ground to move the government off its current proposal to use methane as a "bridge" to clean energy. According to Santiago, Earthjustice will be instrumental in helping to make the legal case and spreading the word across the island – and on the mainland – about why it is important to rebuild the electrical system in a way that allows the island to prosper economically while preserving its rich, abundant environment.

"After the hurricane, a lot of people in Puerto Rico are so exhausted, so overwhelmed by so many problems," says Arroyo. "Earthjustice is really critical now. We will be side by side with the grassroots organizations that are fighting against the government proposal for methane gas, and fighting to get them to go straight to solar." 🌱

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EARTHJUSTICE

Carol Snyder Halberstadt has been an environmental activist for as long as she can remember. Growing up in the Bronx, and later spending many summers in the Southwest, the 80-year-old grandmother learned that human and environmental justice are inseparable. A published poet, Carol writes often about our living Earth and the intricate web of life, fragile but resilient, that connects and sustains us all.

"I can document climate change in my backyard. I've seen it happen in my time," says Carol, who now lives in Newton, Massachusetts. "We are facing the most important moral, ethical, and existential crisis of our time. We have a window of about 12 to 20 years, one generation. What's under way can't be stopped. If we don't do something to get off all fossil fuels, life on earth will be unsustainable."

It is this climate crisis that brought Carol to Earthjustice more than two decades ago. As she learned more about the organization's work, its collaboration with small, grassroots groups stood out to her. She herself had cofounded this type of group: Black Mesa Weavers for Life and Land, a collective that marketed Navajo-Churro wool, yarn, and weavings crafted by traditional Diné (Navajo) weavers. The collective



Courtesy of Carol Snyder Halberstadt

also advocated for renewable energy development and worked to protect aquifers that provide water to northern Arizona's Black Mesa region from coal mining destruction.

Now, even while living on a modest income, Carol remains a committed monthly supporter of Earthjustice.

"Earthjustice is at the forefront of saving our planet. We are the only species that is capable of destroying the planet. But we also can save our planet and most of life on Earth. We can do this."

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**"ONCE YOU DRILL
IN THESE PLACES,
THERE IS NO TURNING BACK."**

— Erik Grafe, Earthjustice attorney

Paul Nicklen / National Geographic Creative

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